

R315. Environmental Quality, Solid and Hazardous Waste.**R315-4. Procedures for Decisionmaking.****R315-4-1. General Program Requirements.****1.3 APPLICATION FOR A PERMIT**

(a) If the Executive Secretary decides that a site visit is necessary for any reason in conjunction with the processing of an application, he shall notify the applicant and a reasonable date shall be scheduled.

(b) The effective date of an application is the date on which the Executive Secretary notifies the applicant that the application is complete as provided in R315-3-2.1(c).

(c) For each application from a major new hazardous waste management facility, the Executive Secretary shall no later than the effective date of the application, prepare and mail to the applicant a project decision schedule. The schedule shall specify target dates by which the Executive Secretary intends to:

- (1) Prepare a draft permit;
- (2) Give public notice;
- (3) Complete the public comment period, including any public hearing; and
- (4) Issue a final permit.

1.5 MODIFICATION, REVOCATION AND REISSUANCE, OR TERMINATION OF PERMITS

(a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person, including the permittee, or upon the Executive Secretary's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in R315-3-4.2 or R315-3-4.4. All requests shall be in writing and shall contain facts or reasons supporting the request.

(b) If the Executive Secretary decides the request is not justified, he shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the Executive Secretary may be appealed to the Board under R315-12-3 by filing a Request for Agency Action pursuant to R315-12-3.1.

(c)(1) If the Executive Secretary tentatively decides to modify or revoke and reissue a permit under R315-3-4.2 or R315-3-4.3, which incorporates by reference 40 CFR 270.42(c), he shall prepare a draft permit under R315-4-1.6 incorporating the proposed changes. The Executive Secretary may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the Executive Secretary shall require the submission of a new application.

(2) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified plan. When a plan is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

- (3) Classes 1 and 2 modifications, as defined in R315-3-4.3,

which incorporates by reference 40 CFR 270.42(a) and (b), are not subject to the requirements of this section.

(d) If the Executive Secretary tentatively decides to terminate a permit under R315-3-4.4, he shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under R315-4-1.6.

1.6 DRAFT PERMIT

(a) Once an application is complete, the Executive Secretary shall tentatively decide whether to prepare a draft permit or to deny the application.

(b) If the Executive Secretary tentatively decides to deny the permit, he shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this section. If the Executive Secretary's final decision is that the tentative decision to deny the permit application was incorrect, he shall withdraw the notice of intent to deny and proceed to prepare a draft permit under R315-4-1.6(c).

(c) If the Executive Secretary decides to prepare a draft permit, he shall prepare a draft permit that contains the following information:

- (1) All conditions under R315-3-3.1 and R315-3-3.3;
- (2) All compliance schedules under R315-3-3.4;
- (3) All monitoring requirements under R315-3-.2; and
- (4) Standards for treatment, storage, or disposal or all and other permit conditions under R315-3-3.1.

(d) All draft permits prepared by the Executive Secretary under this section shall be publicly noticed and made available for public comment. The Executive Secretary shall give notice of opportunity for a public hearing, issue a final decision, and respond to comments.

1.8 FACT SHEET REQUIRED

(a) A fact sheet shall be prepared by the Executive Secretary for every draft permit. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The Executive Secretary shall send this fact sheet to the applicant and, on request, to any other person.

(b) The fact sheet shall include, when applicable:

- (1) A brief description of the type of facility or activity which is the subject of the draft permit.
- (2) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged.
- (3) A brief summary of the basis of the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references.

(4) Reasons why any requested variance or alternatives to required standards do or do not appear justified.

(5) A description of the procedures for reaching a final decision on the draft permit including:

- (i) The beginning and ending dates of the comment period under R315-4-1.10 and the address where comments will be received;
- (ii) Procedures for requesting a hearing and the nature of that

hearing; and

(iii) Any other procedures by which the public may participate in the final decision.

(6) Name and telephone number of a person to contact for additional information.

1.10 PUBLIC NOTICE OF PERMIT ACTIONS AND PUBLIC COMMENT PERIOD

(a) Scope.

(1) The Executive Secretary shall give public notice that the following actions have occurred:

(i) The permit application has been tentatively denied under R315-4-1.6(b).

(ii) A draft permit has been prepared under R315-4-1.6(c).

(iii) A hearing has been scheduled under R315-4-1.12; or

(iv) An appeal has been granted by the Board.

(2) No public notice is required when a request for a permit modification, revocation and reissuance, or termination is denied under R315-4-1.5(b). Written notice of that denial shall be given to the requestor and to the permittee.

(3) Public notices may describe more than one permit or permit action.

(b) Timing.

(1) Public notice of the preparation of a draft permit, including a notice of intent to deny a permit application, required under R315-4-1.10(a), shall allow at least 45 days for public comment.

(2) Public notice of a public hearing shall be given at least 30 days before the hearing. Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.

(c) Methods.

Public notices of activities described in R315-4-1.10(a)(1) shall be given by the following methods:

(1) By mailing a copy of a notice to the following persons:

(i) The applicant;

(ii) Any other agency which the Executive Secretary knows has issued or is required to issue a permit, for the same facility or activity including EPA;

(iii) Federal and State agencies with jurisdiction over fish, and wildlife resources, State Historic Preservation Officers, and other appropriate government authorities;

(iv) Persons on a mailing list developed by:

(A) Including those who request in writing to be on the list;

(B) Soliciting persons for area lists from participants in past permit proceedings in the area of the facility; and

(C) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in regional- and state-funded newsletters, environmental bulletins, or law journals. The Executive Secretary may update the mailing list by requesting written indication of continued interest from those listed. The Executive Secretary may delete from the list the name of any person who fails to respond to a request from the Executive Secretary to remain on the mailing list; and

(v)(A) To any unit of local government having jurisdiction over the area where the facility is proposed to be located;

(B) To each State agency having any authority under State law with respect to the construction or operation of the facility.

(2) Publication of a notice in a daily or weekly newspaper within the area affected by the facility or activity and broadcast over local radio stations;

(3) In a manner constituting legal notice to the public under State law; and

(4) Any other method reasonably calculated to give actual notice of the action in question to the person potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(d)(1) All public notices issued under this section shall contain the following minimum information:

(i) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(ii) A brief description of the business conducted at the facility or activity described in the permit application or draft permit;

(iii) Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or fact sheet, and the application;

(iv) A brief description of the comment procedures required by R315-4-1.11 and R315-4-1.12, and the time and place of any hearing that will be held, including a statement of procedures to request a hearing, unless a hearing has already been scheduled and other procedures by which the public may participate in the final permit decision; and

(v) Any additional information considered necessary or proper.

(2) Public notices of hearings. In addition to the general public notice described in R315-4-1.10(d)(1), the public notice of a hearing under R315-4-1.12, shall contain the following information:

(i) Reference to the date of previous public notices relating the permit;

(ii) Date, time, and place of the hearing;

(iii) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures; and

(e) In addition to the general public notice described in R315-4-1.10(d)(1), all persons identified in R315-4-1.10(c)(1)(i), (ii), and (iii) shall be mailed a copy of the fact sheet.

1.11 PUBLIC COMMENTS AND REQUESTS FOR PUBLIC HEARINGS

During the public comment period provided under R315-4-1.10, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in R315-4-1.17.

1.12 PUBLIC HEARINGS

(a)(1) The Executive Secretary shall hold a public hearing whenever he finds, on the basis of requests, a significant degree of public interest in a draft permit.

(2) The Executive Secretary may also hold a public hearing at his discretion, whenever, for instance, a hearing might clarify one or more issues involved in the permit decision.

(3)(i) The Executive Secretary shall hold a public hearing whenever he receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice under R315-4-1.10(b).

(ii) Whenever possible the Executive Secretary shall schedule a hearing under this section at a location convenient to the nearest population center to the proposed facility.

(4) Public notice of the hearing shall be given as specified in R315-4-1.10.

(b) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under R315-4-1.10 shall automatically be extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.

(c) A tape recording or written transcript of the hearing shall be made available to the public.

1.15 ISSUANCE AND EFFECTIVE DATE OF PERMIT

(a) After the close of the public comment period under R315-4-1.10 on a draft permit, the Executive Secretary shall issue a final permit decision (or a decision to deny a permit for the active life of a hazardous waste management facility or unit under R315-3-2.20). The Executive Secretary shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a hazardous waste permit or a decision to terminate a hazardous waste permit. For the purposes of R315-4-1.15, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) A final permit decision (or a decision to deny a permit for the active life of a hazardous waste management facility or unit under R315-3-2.20) shall become effective upon issuance unless:

(1) A later effective date is specified in the decision; or

(2) The permit decision is challenged under R315-12-3 and a stay of the decision is granted under R315-12-8.

1.17 RESPONSE TO COMMENTS

(a) At the time that any final permit decision is issued, the Executive Secretary shall issue a response to comments. This response shall:

(1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(2) Briefly describe and respond to all significant comments on the draft permit or permit application raised during the public comment period, or during any hearing.

(b) The response to comments shall be available to the public.

R315-4-2. Specific Procedures Applicable to Hazardous Waste Permits.

2.31 PRE-APPLICATION PUBLIC MEETING AND NOTICE

(a) Applicability. The requirements of this section shall apply to all part B applications seeking initial permits for hazardous waste management units. The requirements of this section shall also apply to part B applications seeking renewal of permits for such units, where the renewal application is proposing a significant change in facility operations. For the purposes of this section, a "significant change" is any change that would qualify as a class 3 permit modification under R315-3-4.3, which incorporates by reference

40 CFR 270.42. The requirements of this section do not apply to permit modifications under R315-3-4.3, which incorporates by reference 40 CFR 270.42, or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b) Prior to the submission of a part B permit for a facility, the applicant shall hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

(c) The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under R315-4-2.31(b), and copies of any written comments or materials submitted at the meeting, to the Executive Secretary as a part of the part B application in accordance with R315-3-2.5(b).

(d) The applicant shall provide public notice of the pre-application meeting at least 30 days prior to the meeting. The applicant shall maintain, and provide to the Division upon request, documentation of the notice.

(1) The applicant shall provide public notice in all of the following forms:

(i) A newspaper advertisement. The applicant shall publish a notice, fulfilling the requirements in R315-4-2.31(d)(2), in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the Executive Secretary shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the Executive Secretary determines that such publication is necessary to inform the affected public. The notice shall be published as a display advertisement.

(ii) A visible and accessible sign. The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in R315-4-2.31(d)(2). If the applicant places the sign on the facility property, then the sign shall be large enough to be readable from the nearest point where the public would pass by the site.

(iii) A broadcast media announcement. The applicant shall broadcast a notice, fulfilling the requirements in R315-4-2.31(d)(2), at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval from the Executive Secretary.

(iv) A notice to the permitting agency. The applicant shall send a copy of the newspaper notice to the Division and local governments in accordance with R315-4-1.10(c)(1)(v).

(2) The notices required under R315-4-2.31(d)(1) shall include:

(i) The date, time, and location of the meeting;

(ii) A brief description of the purpose of the meeting;

(iii) A brief description of the facility and proposed operations, including the address or a map, e.g., a sketched or copied street map, of the facility location;

(iv) A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and

(v) The name, address, and telephone number of a contact

person for the applicant.

2.32 PUBLIC NOTICE REQUIREMENTS AT THE APPLICATION STAGE

(a) **Applicability.** The requirements of this section shall apply to all part B applications seeking initial permits for hazardous waste management units. The requirements of this section shall also apply to part B applications seeking renewal of permits for such units under R315-3-5.2(b) through (d). The requirements of this section do not apply to permit modifications under R315-3-4.3, which incorporates by reference 40 CFR 270.42, or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b) **Notification at application submittal.**

(1) The Executive Secretary shall provide public notice as set forth in R315-4-1.10(c)(1)(iv), and notice to appropriate units of State and local government as set forth in R315-4-1.10(c)(1)(v), that a part B permit application has been submitted to the Division and is available for review.

(2) The notice shall be published within a reasonable period of time after the application is received by the Executive Secretary. The notice shall include:

- (i) The name and telephone number of the applicant's contact person;
 - (ii) The name and telephone number of the Division, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;
 - (iii) An address to which people can write in order to be put on the facility mailing list;
 - (iv) The location where copies of the permit application and any supporting documents can be viewed and copied;
 - (v) A brief description of the facility and proposed operations, including the address or a map, e.g., a sketched or copied street map, of the facility location on the front page of the notice; and
 - (vi) The date that the application was submitted.
- (c) Concurrent with the notice required under R315-4-2.32(b), the Executive Secretary shall place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the Division's office.

2.33 INFORMATION REPOSITORY

(a) **Applicability.** The requirements of this section shall apply to all part B applications seeking initial permits for hazardous waste management units.

(b) The Executive Secretary may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the Executive Secretary shall consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity of the nearest copy of the administrative record. If the Executive Secretary determines, at any time after submittal of a permit application, that there is a need for a repository, then the Executive Secretary shall notify the facility that it shall establish and maintain an information repository. See R315-3-3.1(m) for similar provisions relating to the information repository during the life of a permit.

(c) The information repository shall contain all documents, reports, data, and information deemed necessary by the Executive

Secretary to fulfill the purposes for which the repository is established. The Executive Secretary shall have the discretion to limit the contents of the repository.

(d) The information repository shall be located and maintained at a site chosen by the facility. If the Executive Secretary finds the site unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the Executive Secretary shall specify a more appropriate site.

(e) The Executive Secretary shall specify requirements for informing the public about the information repository. At a minimum, the Executive Secretary shall require the facility to provide a written notice about the information repository to all individuals on the facility mailing list.

(f) The facility owner/operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the Executive Secretary. The Executive Secretary may close the repository at his or her discretion, based on the factors in R315-4-2.33(b).

R315-4-10. Public Participation.

In addition to hearings required under the State Administrative Procedures Act and proceedings otherwise outlined or referenced in these rules, the Executive Secretary will investigate and provide written response to all citizen complaints duly submitted. In addition, the Executive Secretary shall not oppose intervention in any civil or administrative proceeding by any citizen where permissive intervention may be authorized by statute, rule or regulation. The Executive Secretary will publish notice of and provide at least 30 days for public comment on any proposed settlement of any enforcement action.

R315-4-11. Commercial Hazardous Waste Facility Siting Criteria.

(a) **Applicability.**

R315-4-11 applies to all plan approval applications for commercial facilities that have been submitted and that have not yet been approved, as well as all future applications.

(b) **Land Use Compatibility and Location.**

(1) Siting of commercial hazardous waste treatment, storage, and disposal facilities, including commercial hazardous waste incinerators, is prohibited within:

- (i) national, state, and county parks, monuments, and recreation areas; designated wilderness and wilderness study areas; wild and scenic river areas;
- (ii) ecologically and scientifically significant natural areas, including but not limited to, wildlife management areas and habitat for listed or proposed endangered species as designated pursuant to the Endangered Species Act of 1982;
- (iii) 100 year floodplains, unless, for non-land based facilities only, the conditions found in subsection R315-8-2.9 are met to the satisfaction of the Executive Secretary;
- (iv) 200 ft. of Holocene faults;
- (v) underground mines, salt domes and salt beds;
- (vi) dam failure flood areas;
- (vii) areas likely to be impacted by landslide, mudflow, or other

earth movement;

(viii) farmlands classified or evaluated as "prime," "unique," or of "statewide importance" by the U.S. Department of Agriculture Soil Conservation Service under the Prime Farmland Protection Act;

(ix) areas above aquifers containing ground water which has a total dissolved solids (TDS) content of less than 500 mg/l and which does not exceed applicable ground water quality standards for any contaminant. Land disposal facilities are also prohibited above aquifers containing ground water which has a TDS content of less than 3000 mg/l and which does not exceed applicable ground water quality standards for any contaminant. Non-land-based facilities above aquifers containing ground water which has a TDS content of 500 to 3000 mg/l and all facilities above aquifers containing ground water which has a TDS content between 3000 and 10,000 mg/l are permitted only where the depth to ground water is greater than 100 ft. The applicant for the proposed facility will make the demonstration of ground water quality necessary to determine the appropriate aquifer classification;

(x) recharge zones of aquifers containing ground water which has a TDS content of less than 3000 mg/l. Land disposal facilities are also prohibited in recharge zones of aquifers containing ground water which has a TDS content of less than 10,000 mg/l;

(xi) designated drinking water source protection areas or, if no source protection area is designated, a distance to existing drinking water wells and watersheds for public water supplies of one year ground water travel time plus 1000 feet for non-land-based facilities and five years ground water travel time plus 1000 feet for land disposal facilities. This requirement does not include on-site facility operation wells. The applicant for the proposed facility will make the demonstration, acceptable to the Executive Secretary, of hydraulic conductivity and other information necessary to determine the one or five year ground water travel distance as applicable. The facility operator may be required to conduct vadose zone or other near surface monitoring if determined to be necessary and appropriate by the Executive Secretary;

(xii) five miles of existing permanent dwellings, residential areas, and other incompatible structures including, but not limited to, schools, churches, and historic structures;

(xiii) five miles of surface waters including intermittent streams, perennial streams, rivers, lakes, reservoirs, estuaries, and wetlands; and

(xiv) 1000 ft. of archeological sites to which adverse impacts cannot reasonably be mitigated.

(c) Emergency Response and Transportation Safety.

(1) An assessment of the availability and adequacy of emergency services, including medical and fire response, shall be included in the plan approval application. The application shall also contain evidence that emergency response plans have been coordinated with local and regional emergency response personnel. Plan approval may be delayed or denied if these services are deemed inadequate.

(2) Trained emergency response personnel and equipment are to be retained by the facility and be capable of responding to emergencies both at the site and involving wastes being transported to and from the facility within the state. Details of the proposed

emergency response capability shall be given in the plan approval application and will be stipulated in the plan approval.

(3) Proposed routes of transport within the state shall be specified in the plan approval application. No hazardous waste shall be transported on roads where weight restrictions for the road or any bridge on the road will be exceeded in the selected route of travel. Prime consideration in the selection of routes shall be given to roads which bypass population centers. Route selection should consider residential and non-residential populations along the route; the width, condition, and types of roads used; roadside development along the route; seasonal and climatic factors; alternate emergency access to the facility site; the type, size, and configuration of vehicles expected to be hauling to the site; transportation restrictions along the proposed routes; and the transportation means and routes available to evacuate the population at risk in the event of a major accident, including spills and fires.

(d) Exemptions.

Exemptions from the criteria of this section may be granted upon application on a case by case basis by the Solid and Hazardous Waste Control Board after an appropriate public comment period and when the Board determines that there will be no adverse impacts to public health or the environment. The Board cannot grant exemptions which would conflict with applicable regulations and restrictions of other regulatory authorities.

(e) Completeness of Application.

The plan approval application shall not be considered complete until the applicant demonstrates compliance with the criteria given herein.

(f) Siting Authority.

It is recognized that Titles 10 and 17 of the Utah Code give cities and counties authority for local land use planning and zoning. Nothing in these rules precludes cities and counties from establishing additional requirements as provided by applicable state and federal law.

KEY: hazardous waste

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Notice of Continuation March 12, 1997

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